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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,256	05/04/2006	Dominique Gilles	GILLES2	6713
82029	7590	10/15/2009	EXAMINER	
AEXIUS, LLC			MORGAN, EILEEN P	
904 Silver Spur Rd. #310			ART UNIT	
Rolling Hills Estates, CA 90274			PAPER NUMBER	
			3723	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/578,256

Applicant(s)

GILLES, DOMINIQUE

Examiner

Eileen P. Morgan

Art Unit

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 13-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Newly submitted claims 13-19 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Claims 13-18 are drawn to a sanding element distinct from the original claims with the limitation of at least one sanding element 3 resting with its operational part on a lamella 4 and is supported thereby, and claim 19 is drawn to a method for removing material and finishing the workpiece with use of one disc.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 13-19 withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-11 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Teetzel et al.-4,275,529.

Teetzel discloses a sanding element with a succession of overlapping lamellas (12,13) of alternating sanding lamellas (12) and compressible, open, non woven lamellas (13), both lamellas have abrasive adhered thereto, (col. 5, line 17), the non

woven lamella being 3x thickness of sanding lamella (12) (Fig. 2), wherein the lamellas are fixed to a round disk shaped member and extend radially.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 12 rejected under 35 U.S.C. 103(a) as being unpatentable over Teetzel, alone.

Teetzel does not disclose the fibers formed of polyamide with a diamtr between 0.75 and 0.85 mm. However, using known fibers made of polyamide having claimed diameter would have been an obvious design choice dependent on machining parameters and desired finish for workpiece.

Response to Arguments

Applicant's arguments filed 6-23-09 have been fully considered but they are not persuasive. Applicant argues on page 5 that Teetzel does not teach compressible lamella. However, the flaps or lamella, which are synonymous, of Teetzel are compressible and resilient (Abstract.) The dimension of area worked by applicants flaps vs. Teetzel is not germane to claimed limitations. Throughout the arguments, Applicant argues differences with his invention vs. Teetzel, however, these differences are not germane to the claimed limitations which Teetzel read on.

For instance, Part A,1. The flaps of Teetzel are compressible and resilient (abstract,spec). The manner in which the tool is used and the functionality are irrelevant.

2. Flaps and lamellas are synonymous.

3. The 'exposed' amount is not claimed.

4. inconsistent grain efficiency is irrelevant. The differences that Applicant points out with Teetzel reference do not overcome the art rejection.

5. Surface area is irrelevant to claimed limitations. Wheel vs. disc, although the figures show the orientation of flaps different, this was not claimed.

6. Finishing and removal with one flap wheel is not claimed. The capabilities of one tool vs. the other is irrelevant to the claimed invention.

7. The degree of contact of Teetzel is not relevant to claimed invention. The degree of pressure would be dictation by user, again, not claimed.

8. The use over time of the tool has nothing to do with claimed limitations which are met by Teetzel.

9. not germane.

10. The fact that the Teetzel flaps are positioned differently and extend at a different angle from the disc than Applicants is irrelevant. They extend 'radially' from disc, which is all that is claimed.

11. The capability of a two step removal/finishing does not distinguish claimed invention over prior art.

In regard to arguments on pages 9-11, Teetzel does show the limitations of the claims. Non-woven refers to the fibers, as shown in the figures. Abrasive grains are bonded to the flaps, therefore to the fibers, whether intentional or not, and bonded by a resin.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eileen P. Morgan whose telephone number is 571.272.4488. The examiner can normally be reached on Monday-Thursday, 7am-3:30pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on 571.272.4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EM
October 13, 2009

/Eileen P Morgan/
Primary Examiner, Art Unit 3723